

1  
2  
3  
4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

6 \* \* \*

7 DE'MARKUS ANTIONE WILLIAMS,

Case No. 2:18-cv-01315-MMD-PAL

8 Plaintiff,

ORDER

9 v.

(Mot WD Atty – ECF No. 50)

10 BOBBY DEWAYNE HENDRIX,

11 Defendant.

12 This matter is before the court on attorney Joseph Gutierrez, Steven Knauss, and Jason  
13 Maier's Motion to Withdraw as Counsel of Record and Removal from CM/ECF Service List  
14 (ECF No. 50). The motion represents that due to a lack of continued communication and  
15 cooperation, counsel is unable to continue to represent plaintiff. The law firm therefore seeks  
16 leave to withdraw as counsel of record.

17 Plaintiff's counsel filed an emergency motion to stay discovery until after pending motions  
18 were decided regarding the admissibility of certain evidence. Defendant opposed the motion  
19 indicating plaintiff's written discovery responses were overdue and plaintiff's counsel had advised  
20 he had not been in recent communication with his client. At a hearing conducted December 18,  
21 2018 on plaintiff's emergency motion for a stay of discovery counsel for plaintiff advised the court  
22 that his client had finally responded to multiple requests to keep in communication and cooperate  
23 in responding to overdue discovery served by defendant. He expected his client to come into the  
24 office the following day to finalize, sign and verify written discovery responses.

25 The declaration supporting the motion to withdraw advises that the office has attempted to  
26 contact plaintiff by telephone and email numerous times, appointments were scheduled for the  
27 plaintiff to come into the office to finalize discovery responses on November 19, 2018, and  
28 December 18, 2018, but plaintiff did not keep the appointments. Numerous subsequent attempts

1 were made to reach plaintiff whose phone number had changed. Plaintiff did not provide his new  
2 phone number although he was told that it was required because his discovery responses were  
3 overdue and contact with counsel was imperative.

4 On December 14, 2018, defendant filed a motion to compel plaintiff to respond to overdue  
5 discovery requests. The court's discovery plan and scheduling order (ECF No. 16) established a  
6 January 16, 2019 deadline for completing discovery, with a February 15, 2019 deadline for filing  
7 dispositive motions. Although the court partially granted plaintiff's emergency motion by staying  
8 expert disclosures and expert discovery until after decision of the motions seeking evidentiary  
9 rulings from the district judge, the court required the parties to complete fact discovery by the  
10 existing January 16, 2019 discovery cutoff.

11 Plaintiff's failure to communicate with counsel and cooperate in providing discovery is an  
12 abusive litigation practice which is wasting judicial and party resources and interfering with timely  
13 completion of discovery and resolution of this case on its merits. **Plaintiff is warned that**  
14 **continued failure to participate in discovery, prosecute this action and comply with the**  
15 **court's orders will result in a recommendation to the district judge that his case be dismissed,**  
16 **and may result in monetary and/or other sanctions.**

17 Having reviewed and considered the matter, and for good cause shown,

18 **IT IS ORDERED:**


- 19 1. The law firm's Motion to Withdraw (ECF No. 50) is **GRANTED**.
- 20 2. The plaintiff shall have until **January 28, 2019** in which to retain substitute counsel  
21 who shall make an appearance in accordance with the requirements of the Local Rules  
22 of Practice or file a notice with the court that he will be appearing in this matter *pro se*,  
23 that is representing himself.
- 24 3. Plaintiff's failure to timely comply with this order by either obtaining substitute counsel  
25 or filing a notice that he will be appearing in this matter *pro se* may result in the  
26 imposition of sanctions, which may include a recommendation to the District Judge  
27 that plaintiff's complaint be dismissed for failure to prosecute. *See Fed. R. Civ. P.*  
28 *41(b).*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

4. The Clerk of the Court shall serve the plaintiff with a copy of this order at his last known address:

De'Markus Antione Williams  
2110 North Los Feliz Street, Apt. 1073  
Las Vegas, NV 89156

DATED this 28th day of December 2018.

  
PEGGY A. LEEN  
UNITED STATES MAGISTRATE JUDGE